

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

In Re:)
Cape Cod Mechanical Systems, Inc.,) Chapter 11
) Case No. 10-19742
Debtor.)
)

**MOTION BY CHRISTOPHER CAVALLARO TO FILE PROOF OF CLAIM
AFTER BAR DATE**

NOW COMES Christopher Cavallaro, a creditor (hereinafter "Claimant") of the above-captioned debtor, Cape Cod Mechanical Systems, Inc. (hereinafter "Debtor"), and hereby requests this Honorable Court permit the filing of the Proof of Claim submitted herewith as "Exhibit A", and deem it as timely filed. In support hereof, Plaintiff states as follows:

- 1) On September 7, 2010, ("Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code;
- 2) On October 7, 2010, this Honorable Court determined that any Proof of Claim must be filed by November 8, 2010 ("Bar Date");
- 3) Prior to the Petition Date, on June 26, 2009, Claimed filed a civil action in the Suffolk County Superior Court, styled *Cavallaro v. Tardanico, et al.*, Docket No. SUCV2009-02648, which, *inter alia*, asserted claims against Debtor for significant property damage arising from Debtor's negligence. A copy of the docket sheet for the said civil action appears as "Exhibit B", attached hereto and incorporated herein by reference; and
- 4) The Suggestion of Bankruptcy in the said civil action was not filed until December 21, 2010, after the Bar Date.

Claimant was not included on the Debtor's Matrix of Creditors or any amendments of same. Claimant lacked actual or constructive notice of the filing of the petition or of the Bar Date prior to the Bar Dar. Claimant was never served with a copy of the 341 Notice or notice of the Bar Date. Thus, Claimant should be permitted to assert a claim as a lawful creditor at this time.

WHEREFORE, Claimant respectfully requests this Honorable Court enter an Order granting leave to file the proposed Proof of Claim submitted herewith.

Date: April 13, 2011

Respectfully submitted,
Christopher Cavallaro,
By his Attorneys,

/s/Jay M. Wolman

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CERTIFICATE OF SERVICE

I, Jay M. Wolman, counsel for Claimant, hereby certify that a true copy of the foregoing document was served upon counsel for Debtor and the Office of the U.S. Trustee, by CM/ECF filing this 13th day of April 2011.

/s/Jay M. Wolman

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